

# **PUBLIC NOTICE OF INTENT TO REDESIGNATE THE AGENCY THAT ADMINISTERS AND OPERATES VIRGINIA'S PROTECTION AND ADVOCACY SYSTEM AND CLIENT ASSISTANCE PROGRAM FOR INDIVIDUALS WITH DISABILITIES**

Federal law requires that a state that establishes programs under the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) must have in place a system to protect and advocate for the civil, human, and legal rights of people with disabilities. See 42 U.S.C. § 15041 et seq. Similarly, the Rehabilitation Act of 1973 mandates that a state must establish a Client Assistance Program to assist individuals who apply for or receive vocational rehabilitation or independent living services under the Act. See 29 U.S.C. § 732.

The Virginia Office for Protection and Advocacy (VOPA), a state agency established under the Code of Virginia, is currently designated as both the Protection and Advocacy System (P&A System) and Client Assistance Program (CAP). VOPA is located at 1910 Byrd Avenue, Richmond, Virginia, 23230.

As the P&A System, VOPA provides advocacy to residents of Virginia who have a physical or mental condition that substantially limits at least one major life activity and who fall within the agency's priorities and case selection criteria as determined through the priority setting process each year. VOPA serves individuals with a wide range of disabilities - including, but not limited to, those with cognitive, mental, sensory, and physical disabilities - by protecting against abuse and neglect; advocating for civil rights; and ensuring accountability in access to and the delivery of services to persons with disabilities in health care, education, employment, housing and transportation. VOPA maintains a presence in facilities that provide care for and services to people with disabilities, where it monitors, investigates and attempts to remedy adverse conditions.

As the CAP, VOPA provides advocacy to people who are applying for or receiving vocational rehabilitation services or services from an independent living center, as well as providing information on rights under Title I of the Americans with Disabilities Act.

In addition to the P&A System under the DD Act and the CAP, VOPA operates federally-funded protection and advocacy programs under the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. §10801 (PAIMI); the Rehabilitation Act of 1973, 29 U.S.C. § 794e (PAIR); the Ticket to Work Act for beneficiaries of Social Security disability, 42 U.S.C. § 1320b-21 (PABSS); the Assistive Technology Act of 1998, 29 U.S.C. § 3004 (PAAT); the Help America Vote Act of 2002, 42 U.S.C. § 15461 (PAVA); and the Traumatic Brain Injury Act of 2008, 42 U.S.C. § 300d-53 (PATBI).

The goals of the P&A System and CAP were developed in collaboration with individuals with disabilities and other interested parties. They include advocacy in six broad areas

to address the following goals:

People with disabilities are free from abuse and neglect  
Children with disabilities receive an appropriate education  
People with disabilities have equal access to government services  
People with disabilities live in the most appropriate integrated environment  
People with disabilities are employed to their maximum potential  
People with disabilities have equal access to appropriate and necessary healthcare

More detailed information can be found at [www.vopa.virginia.gov](http://www.vopa.virginia.gov).

The designation of an agency to administer and operate the P&A System and the CAP may be removed and another agency redesignated only for good cause. Within 30 days after the redesignation becomes effective, the Governor must submit an assurance that the newly designated Protection and Advocacy entity meets the requirements of the statute and the regulations.

The Virginia General Assembly, in conjunction with the Governor, has determined that it is in the interest of Virginians with disabilities to redesignate the agency operating and administering the P&A System and CAP. The Governor intends to designate a not-for-profit corporation, the disAbility Law Center of Virginia (dLCV), as the P&A System and CAP, effective October 1, 2013. The selection is consistent with Virginia Code § 51.5-39.13. dLCV has been properly established as a not-for-profit corporation under the laws of Virginia, has obtained the approval of the federal Internal Revenue Service to operate as a tax exempt charity under section 501(c)(3) of the Internal Revenue Code, and is registered as a charitable corporation in Virginia. Costs of the redesignation are estimated to be incidental.

Good cause for the redesignation includes:

- enhancement of protection and advocacy for individuals with disabilities and their families;
- elimination of any perceived conflict of interest associated with the current placement of the P&A System and CAP in state government;
- greater flexibility for the P&A System and CAP with current resources and the opportunity to explore financial resources for which those programs do not currently qualify;
- greater independence for the P&A System and CAP in personnel and other administrative matters, which will facilitate compliance with federal requirements in these areas; and
- consistency with the provisions of the Code of Virginia.

dLCV will operate all of the P&A/CAP programs authorized under federal law. dLCV will continue to serve existing clients and cases of the current P&A system or refer them to other sources of legal advocacy as appropriate, without disruption.

The Governor has, simultaneously with this public notice, provided notice to VOPA as the existing P&A System and CAP; the State Rehabilitation Advisory Council; and the State Independent Living Council. Interested persons may wish to write to VOPA to obtain a copy of its response to that notice. Such requests should be sent to the address for VOPA provided above.

Public comment on this redesignation will be accepted until July 17, 2013. Comments should be sent to the following:

Protection and Advocacy Redesignation  
Office of the Governor  
Patrick Henry Building,  
3rd Floor  
1111 East Broad Street  
Richmond, Virginia 23219

or

Email: [HealthandHumanResources@governor.virginia.gov](mailto:HealthandHumanResources@governor.virginia.gov)

A public hearing on the proposed redesignation will be held on August 1, 2013, at 9:00am in the General Assembly Building, House Room C, 910 Capitol Street, Richmond, VA 23219.